



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

RIO GRANDE REGIONAL HOSPITAL

Respondent Name

TX ASSOC OF COUNTIES RMP

MFDR Tracking Number

M4-11-4237-02

Carrier's Austin Representative

Box Number 01

MFDR Date Received

MAY 29, 2008

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per Rule 134.401 (c)(6)(A)(i)(iii), once the bill has reached the minimum stop-loss threshold of \$40K, the entire admission will be paid using the stop-loss reimbursement factor ('SLRF') of 75%."

Requestor's Supplemental Position Summary dated June 6, 2011: "On or about Friday, June 3, 2011, I received a telephone call from Laura at TDI, DWC advising that... there was an extent of injury issue..."

Amount in Dispute: \$79,354.74

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated August 5, 2011: "The Provider's bill involves the charges for the hospitalization of the Claimant for surgery. The Provider billed the Carrier \$130,474.22 for the total cost of the hospitalization, surgery, and implantables. The Carrier reimbursed the Provider a total of \$18,500.92. The implantables were reimbursed at cost plus ten percent, according to Rule 134.401(c)(4)(A)(i), for a reimbursement of \$15,067.32. After deducting the billing of the implantables, the remainder of the bill equaled \$47,799.72 and was reimbursed at per diem rate of \$1118.00 times three days. There were no complications, and the three-day procedure was neither unusually extensive nor expensive... Therefore, the Provider has not shown itself to be entitled to additional reimbursement."

Respondent's Supplemental Position Summary Dated February 12, 2013: "On January 4, 2011, a contested case hearing was held to determine the following issue: 'Does the Compensable injury of 03/30/06 extend to include aggravation of lumbar degenerative disc disease, lumbar spondylolisthesis at L4-L5, and lumbar spondylosis?'"

Following this contested case hearing, at which Rio Grande Hospital appeared as a subclaimant, the Division entered a Decision and Order, which has not been appealed, which included a finding that the claimed conditions of aggravation of lumbar degenerative disc disease, lumbar spondylolisthesis at L4-L5, and lumbar spondylosis were not caused, accelerated, enhanced or worsened by the compensable injury of March 30, 2006. The hearing officer also concluded that the compensable injury did not extend to include aggravation of lumbar degenerative disc disease, lumbar spondylolisthesis at L4-L5, and lumbar spondylosis.

Complicating this somewhat is the fact that prior to the contested case hearing the parties had entered into a benefit dispute agreement agreeing that the compensable injury does extend to include L4-L5 herniation and lumbar disc displacement at L4-L5.

Therefore, the carrier contends that while it may owe payment, which has been previously made, for a portion of the surgical intervention to treat the herniation at L4-L5, the treatment for spondylolisthesis and L4-L5 lumbar spondylosis is not part of the compensable injury and the carrier is not liable for the full extent of the surgery and admission, such as fusion and instrumentation.”

Respondent’s Supplemental Position Summary Dated August 15, 2014: “We previously filed a Supplemental Response following receipt of the Division’s notice of January 29, 2013. Since it appears that our prior Supplemental Response may have been misplaced, we are re-filing it at this time.”

Responses Submitted by: Parker & Associates, L.L.C.

SUMMARY OF FINDINGS

| Disputed Dates | Disputed Services | Amount In Dispute | Amount Due |
|--------------------------------------|-----------------------------|-------------------|------------|
| May 30, 2007 through June 2, 2007 | Inpatient Hospital Services | \$79,354.74 | \$0.00 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers’ Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 Texas Register 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital for the date of admission in dispute.
3. 28 Texas Administrative Code §134.1, effective May 2, 2006 sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.
4. The Third Court of Appeals’ November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.”
5. The services in dispute were reduced / denied by the respondent with the following reason codes:

Explanation of Benefits Dated July 30, 2007

- W1-Workers compensation state fee schedule adjustment.
- 233-Allowance based on inpatient per diem rate.
- 5083-Stop-loss threshold is established to ensure compensation for ‘unusually extensive’ services required during admission. After reviewing the submitted documentation, it has been established that there were no unusually extensive services provided. Reimbursement will be made per ACIHFG standard per diem amount plus the carve out items listed under additional reimbursement.
- Based on operative report, procedure was tolerated well with no complications. The patient went to recovery room in good condition and vital signs.

Explanation of Benefits Dated December 10, 2007

- W5-Request for recoupment for an overpayment made to a health care provider.
- There is no medical justification for leukocytosis being related to original work injury.

Explanation of Benefits Dated March 10, 2008

- W3-Additional payment made on appeal/reconsideration.
- W4-No additional reimbursement allowed after review of appeal/reconsideration.
- 1014-The attached billing has been re-evaluated at the request of the provider based on the re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.

Issues

1. Does an extent of injury issue exist in this dispute?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?

4. Did the admission in dispute involve unusually costly services?
5. Was the dispute filed in the form and manner required by 28 Texas Administrative Code §133.307?
6. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the Division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed

1. On September 20, 2010, a Benefit Dispute Agreement was reached that found that “The Parties agree the compensable injury of 03/30/06 does extend to include L4-L5 disc herniation, and lumbar disc displacement at L4-L5. The Parties further agree the compensable injury of 03/30/06 does not extend to include leukocytosis, chronic liver disease, and tobacco use disorder.” Therefore, the issue regarding the compensability of the leukocytosis has been resolved and found non-compensable.
2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier deducted \$3,796.00 in charges for treatment of leukocytosis in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$126,678.22. The Division concludes that the total audited charges exceed \$40,000
3. 28 Texas Administrative Code §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). Paragraph (6)(A)(ii) states that “This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission.” The Third Court of Appeals' November 13, 2008 opinion states that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services” and further states that “...independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases.” The requestor in its position statement states that “Per Rule 134.401(c)(6)(A)(i)(iii), once the bill has reached the minimum stop-loss threshold of \$40K, the entire admission will be paid using the stop-loss reimbursement factor (‘SLRF’) of 75%...Therefore, reimbursement for the entire admission including charges for items in (c)(4) is calculated by the stop-loss reimbursement factor stated in the ACIHFG, i.e., 75%.” This statement does not meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C) because the requestor presumes that the disputed services meet Stop-Loss, thereby presuming that the admission was unusually extensive. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).
4. 28 Texas Administrative Code §134.401(c)(6) states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services. The requestor's position statement does not address how this inpatient admission was unusually costly. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar surgical

services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(6).

5. 28 Texas Administrative Code §133.307(c)(2)(A), requires that the request shall include “a copy of all medical bill(s)... as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration...” Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all medical bill(s) as originally submitted to the carrier. The Division concludes that the requestor has not met the requirements of 28 Texas Administrative Code §133.307(c)(2)(A).
6. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The Division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that “The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission...” Review of the submitted documentation finds that the length of stay for this admission was two surgical days and one ICU/CCU; therefore the standard per diem amounts of \$1,118.00 and \$1,560.00 apply respectively. The per diem rates multiplied by the allowable days result in a total allowable amount of \$3,796.00.
 - 28 Texas Administrative Code §134.401(c)(4)(A), states “When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274).” A review of the submitted explanation of benefits indicates that the requestor billed a total of \$86,470.50 for revenue code 278.
 - Review of the medical documentation provided finds that although the requestor billed items under revenue code 278, no invoices were found to support the cost of the implantables billed. In addition, the medical bill and itemized statement were not included to identify the implantables. For that reason, no additional reimbursement can be recommended.
 - 28 Texas Administrative Code §134.401(c)(4)(B) allows that “When medically necessary the following services indicated by revenue codes shall be reimbursed at a fair and reasonable rate: (iv) Blood (revenue codes 380-399).” A review of the submitted explanation of benefits finds that the requestor billed \$391.00 for revenue code 390-Blood Storage and Processing. 28 Texas Administrative Code §133.307(g)(3)(D), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement.” Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for revenue code 390 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended.

The division concludes that the total allowable for this admission is \$3,796.00. The respondent issued payment in the amount of \$18,500.92. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

For the reasons stated above, the Division concludes that the services in dispute are not eligible for review in medical dispute resolution nor do they meet the eligibility for stop-loss method of reimbursement. As a result, additional reimbursement cannot be recommended.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

| | | |
|--------------------|---|-----------------------------|
| _____ Signature | _____ Medical Fee Dispute Resolution Officer | _____ 11/05/2014 Date |
|--------------------|---|-----------------------------|

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| _____ Signature | _____ Medical Fee Dispute Resolution Manager | _____ 11/05/2014 Date |
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.